

FILED

NOV 21 2006

BEFORE THE DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ARIZONA

DISCIPLINARY COMMISSION OF THE  
SUPREME COURT OF ARIZONA  
BY *[Signature]*

IN THE MATTER OF A MEMBER  
OF THE STATE BAR OF ARIZONA,

Nos. 05-1606, 05-1817

GARETH C. HYNDMAN, II,  
Bar No. 019500

DISCIPLINARY COMMISSION  
REPORT

RESPONDENT.

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on October 14, 2006, pursuant to Rule 58, Ariz. R. Sup. Ct., for consideration of the Hearing Officer's Report filed June 16, 2006, recommending acceptance of the Tender of Admissions and the Agreement for Discipline by Consent (Tender) and the Joint Memorandum (Joint Memorandum) in Support of Agreement for Discipline by Consent providing for a 90-day suspension, one year of probation with the State Bar's Member Assistance Program (MAP), and the State Bar's Law Office Management Assistance Program (LOMAP), and costs.

Decision

The seven members<sup>1</sup> of the Disciplinary Commission unanimously recommend accepting and adopting the Hearing Officer's findings of fact, conclusions of law, and recommendation for a 90-day suspension, one year of probation (MAP and LOMAP), and costs of these disciplinary proceedings.<sup>2</sup> The terms of probation are as follows:

<sup>1</sup> Commissioner Baran did not participate in these proceedings. One public member seat remains vacant.

<sup>2</sup> A copy of the Hearing Officer's Report is attached as Exhibit A.

### **Terms of Probation**

1           1.     Respondent shall participate in MAP. Within 30 days of the date of the  
2 final Judgment and Order, Respondent shall contact MAP director Hal Nevitt and submit  
3 to a MAP assessment. Respondent thereafter shall enter into a therapeutic contract  
4 incorporating the recommendations of the MAP director or designee. The MAP contract  
5 will be effective for a period of one year from the date Respondent signs the MAP  
6 contract.  
7

8           2.     Respondent shall be responsible for all costs associated with MAP.

9           3.     In the event that Respondent returns to private practice during the probation  
10 period, Respondent shall report the employment change within 30- days to bar counsel and  
11 LOMAP director. Respondent thereafter shall submit to a LOMAP audit and enter into a  
12 new probation contract effective for a period of one year from the date the LOMAP  
13 contract is signed. Respondent shall comply with all recommendations of the LOMAP  
14 director or designee.  
15

16          4.     Respondent shall pay the costs associated with LOMAP.

17          5.     Within 30 days of the date of the order reinstating Respondent from the 90-  
18 day suspension, Respondent shall pay restitution to the State Bar for the Ethics  
19 Enhancement Program (EEP) enrollment fee, and any other unpaid costs ordered in File  
20 No. 03-1331.  
21

22          6.     Respondent shall refrain from engaging in any conduct that would violate  
23 the Rules of Professional Conduct or the Rules of the Supreme Court of Arizona.

24          7.     Respondent shall pay all costs incurred by the State Bar in these  
25 disciplinary proceedings. All costs shall be paid within 30 days of reinstatement.  
26

8. In the event that Respondent fails to comply with any of the foregoing conditions, and the State Bar receives information, bar counsel shall file with the Hearing Officer a Notice of Non-Compliance, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Hearing Officer shall conduct a hearing within thirty days after receipt of said notice, to determine whether the terms of probation have been violated and if an additional sanction should be imposed. In the event there is an allegation that any of these terms have been violated, the burden of proof shall be on the State Bar of Arizona to prove non-compliance by clear and convincing evidence.

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of November, 2006.

Barbara A. Atwood

Barbara A. Atwood, Chair  
Disciplinary Commission

Original filed with the Disciplinary Clerk  
this 21<sup>st</sup> day of November, 2006.

Copy of the foregoing mailed  
this 21<sup>st</sup> day of November, 2006, to:

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by

Cynthia A. Dominguez

/mps